

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

ARSHEED BROTHERS GREENWOOD,  
INC., a Washington corporation d/b/a MR.  
GYROS.

Plaintiff,

MID-CENTURY INSURANCE COMPANY,  
a California insurance company

Defendant.

No.

**DEFENDANT'S NOTICE OF  
REMOVAL PURSUANT TO 28 U.S.C. §  
1441(a)**

TO: The Clerk of the Court

AND TO: Tristan N. Swanson, Attorney for Plaintiff

Please take Notice that Defendant Mid-Century Insurance Company (“Mid-Century”) hereby removes to this Court the state court action described below:

## I. The Subject Action

1. On August 6, 2018, Plaintiff Arsheed Brothers Greenwood, Inc. filed an action in the Superior Court of Washington for King County, which the Superior Court assigned case number 18-2-19686-8. A copy of the Summons and Complaint are attached as **Exhibits A** and **B** respectively.

2. The State of Washington Office of Insurance Commissioner accepted service of a copy of the Summons and Complaint on August 13, 2018.

## II. Diversity of Citizenship

3. In the Complaint, Plaintiff alleges it is a Washington Corporation with its principal place of business in King County, Washington.

4. Mid-Century is a foreign insurance company organized under the laws of the State of California with its principal place of business in Woodland Hills, California. Therefore, Mid-Century is a citizen of the State of California.

### **III. Amount in Controversy**

5. In the Complaint, Plaintiffs allege Mid-Century's allegedly unreasonable adjustment of its claim caused them to receive \$72,000 to \$112,000 less than what they were owed pursuant to their policy.

6. The Complaint alleges that Mid-Century's conduct constituted a violation of the Washington Consumer Protection Act ("CPA") and on that basis demands an award of treble damages up to the statutory maximum. The CPA authorizes the court to increase an award of actual damages "an amount not to exceed three times the actual damages sustained" up to \$25,000. RCW § 19.86.090.

7. The Complaint also alleges that Plaintiff, contemporaneously with the filing of the Complaint, served the notice required to initiate an action under the Insurance Fair Conduct Act (“IFCA”). Plaintiff’s Complaint indicates its intention amend the Complaint to include a claim under IFCA. IFCA allows for an award of treble damages but does not contain a statutory maximum. RCW 48.30.015(2).

8. Courts consider a request for treble damages in calculating the amount-in-

1 controversy. *See Lim v. Nat'l Gen. Ins. Co.*, No. C15-383RSL, 2015 U.S. Dist. LEXIS 180871,  
2 \*6 (W.D. Wash. 2015). Therefore, based solely on the Complaint's request for relief under the  
3 CPA, the amount-in-controversy is between \$97,000 and \$137,000. Considering Plaintiff's  
4 intention to plead a claim under IFCA, the amount-in-controversy increases to between  
5 \$216,000 and \$336,000.

6 9. "The amount in controversy [also] includes ... attorney's fees, if authorized by  
7 statute or contract." *Kroske v. US Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005). Both the CPA  
8 and IFCA authorize an award of attorney's fees. RCW § 19.86.090; RCW 48.30.015(3). The  
9 Complaint demands attorney's fees. Plaintiffs' request for attorney's fees therefore further  
10 increases the amount in controversy above the amounts set forth above.

#### 11 IV. Jurisdiction

12 10. For purposes of determining jurisdiction under 28 U.S.C. § 1332, Mid-Century  
13 is a citizen of the State of California and Plaintiff is a citizen of the State of Washington.  
14 Complete diversity exists.

15 11. The amount in controversy exceeds \$75,000.

16 12. This Court therefore has jurisdiction over this controversy under 28 U.S.C. §  
17 1332 and removal is appropriate pursuant to 28 U.S.C. § 1441.

#### 18 V. Timeliness

19 13. Plaintiffs filed the Complaint on August 6, 2018. The Summons and Complaint  
20 were served on August 13, 2018. This Notice of Removal is being filed on August 22, 2018. As  
21 a result, this Notice of Removal is timely under 28 U.S.C. § 1446.

#### 22 VI. Copies of Process, Pleadings, Orders, and Motions in State Court Proceedings

23 14. In accordance with 28 U.S.C. § 1446, attached to this Notice of Removal as

1 **Exhibits A** through **F** are true and correct copies of the pleadings, process, orders, additional  
2 records, and additional proceedings in the Washington Superior Court of King County. These  
3 documents are:

4                   A.     Summons;  
5                   B.     Complaint;  
6                   C.     Set Case Schedule JDG0053;  
7                   D.     Case Information Cover Sheet;  
8                   E.     Certificate of Service; and  
9                   F.     Notice of Appearance

10  
11                   DATED this 22nd day of August, 2018.

12                   LETHER & ASSOCIATES, PLLC

13                   s/ Thomas Lether  
14                   s/ Eric J. Neal  
15                   Thomas Lether, WSBA No. 18089  
16                   Eric J. Neal, WSBA No. 31863  
17                   1848 Westlake Avenue N, Suite 100  
18                   Seattle, WA 98109  
19                   P: (206) 467-5444/F: (206) 467-5544  
20                   tlether@letherlaw.com  
21                   eneal@letherlaw.com  
22                   *Counsel for Defendant Mid-Century Insurance  
23                   Company*

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies under the penalty of perjury under the laws of the United States that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the following party:

Tristan N. Swanson  
Ashbaugh Beal  
701 Fifth Ave. Suite 4400  
Seattle, WA 98104  
206.386.5900  
[tswanson@ashbaughbeal.com](mailto:tswanson@ashbaughbeal.com)  
*Counsel for Plaintiff*

By: [X] ECF/Email

Dated this 22nd day of August, 2018 at Seattle, Washington.

/s/ *Lina Wiese*  
Lina Wiese | Paralegal